

CHAPTER 65

AN ACT

HB 2148

Relating to taxation of improvements on Indian trust land; creating new provisions; amending ORS 307.181; and prescribing an effective date.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 307.181 is amended to read:

307.181. (1)(a) Land acquired by an Indian tribe by purchase, gift or without consideration is exempt from taxation if:

[(a)] (A) The land is located within the ancient tribal boundaries of the tribe; and

[(b)] (B) Acquisition of the land by the United States in trust status has been requested or is in process.

[(2)] (b) The exemption **granted** under **this** subsection [(1) of this section] ceases if the federal government enters a final administrative determination denying the request for acquisition of the land in trust status and:

[(a)] (A) The deadlines for all available federal administrative appeals and federal judicial review expire with no appeal or review initiated; or

[(b)] (B) All federal administrative and judicial proceedings arising from or related to the request for or process of acquisition of the land in trust status that have been initiated are completed without overturning the administrative denial of the request.

(2)(a) Regardless of ownership, permanent improvements are exempt from state and local property taxes and fees, charges and assessments related to property taxation if the improvements are located on land that is owned by the United States and held in trust pursuant to federal law for:

(A) A federally recognized Indian tribe; or

(B) An individual member of a federally recognized Indian tribe.

(b) The exemption granted under this subsection does not apply to property assessable under ORS 308.505 to 308.665.

(3)(a) Notwithstanding [subsections (1) and (2)] **subsection (1)** of this section, property that is owned exclusively by an eligible Indian tribe or by an entity wholly owned by an eligible Indian tribe, or a portion of the property, is exempt from taxation if the property, or the portion of the property, respectively, is used exclusively for government services.

(b) Property described in paragraph (a) of this subsection that may be exempt from taxation as property used exclusively for low income rental housing includes, without limitation, property that:

(A) Is held under lease or a lease purchase agreement by an eligible Indian tribe;

(B)(i) Is the property of a partnership, nonprofit corporation or limited liability company of which an eligible Indian tribe is a general partner, limited

partner, director, member, manager or general manager; and

(ii) Is leased or rented to low income persons for housing purposes; or

(C) Is used exclusively for an activity that qualifies as an affordable housing activity under 25 U.S.C. 4132.

(c) Property described in paragraph (a) of this subsection may not be exempt from taxation as property that is used exclusively for low income rental housing unless:

(A) For purposes of ORS 307.540 to 307.548, the requirements of ORS 307.543 have been satisfied;

(B) The property is offered for rent or is held for the purpose of developing low income rental housing;

(C) If occupied, the property is occupied solely by low income persons; and

(D) The property is located in a county in which more than 10 percent of the enrolled members of the eligible Indian tribe reside.

(4) As used in this section:

(a) "Eligible Indian tribe" means the Burns Paiute Tribe, the Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians, the Confederated Tribes of the Grand Ronde Community of Oregon, the Confederated Tribes of Siletz Indians of Oregon, the Confederated Tribes of the Umatilla Indian Reservation, the Confederated Tribes of Warm Springs Reservation of Oregon, the Coquille Indian Tribe, the Cow Creek Band of Umpqua Tribe of Indians or the Klamath Tribes.

(b) "Government services" means services provided by an eligible Indian tribe that:

(A) Are equivalent to services that a state or local government or the federal government customarily provides to its citizens;

(B) Are related to:

(i) Tribal administration;

(ii) Tribal facilities or tribal health facilities;

(iii) Elementary or secondary education or higher education, including community colleges;

(iv) Transportation;

(v) Fire or police;

(vi) Low income rental housing;

(vii) Utility services provided to an Indian reservation or to land held in trust by the United States for the benefit of an eligible Indian tribe; or

(viii) Cemeteries; and

(C) Other than government services related to the uses of property described in subsection (3)(c) of this section, do not generate income.

(c) "Low income":

(A) Means income at or below 60 percent of the area median income as determined by the State Housing Council based on information from the United States Department of Housing and Urban Development.

(B) For purposes of projects undertaken pursuant to the Native American Housing Assistance and Self-Determination Act of 1996 (P.L. 104-330), includes income that qualifies under 24 C.F.R. 5.609.

(d) “Permanent improvements” means “real property” as defined in ORS 307.010 (1)(b)(B).

[(d)] (e) “Utility services” means services related to sanitation, sewer, storm drainage and water.

SECTION 2. ORS 307.181, as amended by section 5, chapter 42, Oregon Laws 2012, is amended to read:

307.181. (1)(a) Land acquired by an Indian tribe by purchase, gift or without consideration is exempt from taxation if:

[(a)] (A) The land is located within the ancient tribal boundaries of the tribe; and

[(b)] (B) Acquisition of the land by the United States in trust status has been requested or is in process.

[(2)] (b) The exemption **granted** under **this** subsection **[(1) of this section]** ceases if the federal government enters a final administrative determination denying the request for acquisition of the land in trust status and:

[(a)] (A) The deadlines for all available federal administrative appeals and federal judicial review expire with no appeal or review initiated; or

[(b)] (B) All federal administrative and judicial proceedings arising from or related to the request for or process of acquisition of the land in trust status that have been initiated are completed without overturning the administrative denial of the request.

(2)(a) Regardless of ownership, permanent improvements are exempt from state and local property taxes and fees, charges and assessments related to property taxation if the improvements are located on land that is owned by the United States and held in trust pursuant to federal law for:

(A) A federally recognized Indian tribe; or

(B) An individual member of a federally recognized Indian tribe.

(b) The exemption granted under this subsection does not apply to property assessable under ORS 308.505 to 308.665.

(3)(a) Notwithstanding **[subsections (1) and (2)] subsection (1)** of this section, property that is owned exclusively by an eligible Indian tribe or by an entity wholly owned by an eligible Indian tribe, or a portion of the property, is exempt from taxation if the property, or the portion of the property, respectively, is used exclusively for government services.

(b) Property described in paragraph (a) of this subsection that may be exempt from taxation as property used exclusively for low income rental housing includes, without limitation, property that:

(A) Is held under lease or a lease purchase agreement by an eligible Indian tribe;

(B)(i) Is the property of a partnership, nonprofit corporation or limited liability company of which an eligible Indian tribe is a general partner, limited partner, director, member, manager or general manager; and

(ii) Is leased or rented to low income persons for housing purposes; or

(C) Is used exclusively for an activity that qualifies as an affordable housing activity under 25 U.S.C. 4132.

(c) Property described in paragraph (a) of this subsection may not be exempt from taxation as property that is used exclusively for low income rental housing unless:

(A) All agreements necessary for the construction and operation of the property as low income rental housing are executed before July 1, 2017;

(B) For purposes of ORS 307.540 to 307.548, the requirements of ORS 307.543 have been satisfied;

(C) The property is offered for rent or is held for the purpose of developing low income rental housing;

(D) If occupied, the property is occupied solely by low income persons; and

(E) The property is located in a county in which more than 10 percent of the enrolled members of the eligible Indian tribe reside.

(4) As used in this section:

(a) “Eligible Indian tribe” means the Burns Paiute Tribe, the Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians, the Confederated Tribes of the Grand Ronde Community of Oregon, the Confederated Tribes of Siletz Indians of Oregon, the Confederated Tribes of the Umatilla Indian Reservation, the Confederated Tribes of Warm Springs Reservation of Oregon, the Coquille Indian Tribe, the Cow Creek Band of Umpqua Tribe of Indians or the Klamath Tribes.

(b) “Government services” means services provided by an eligible Indian tribe that:

(A) Are equivalent to services that a state or local government or the federal government customarily provides to its citizens;

(B) Are related to:

(i) Tribal administration;

(ii) Tribal facilities or tribal health facilities;

(iii) Elementary or secondary education or higher education, including community colleges;

(iv) Transportation;

(v) Fire or police;

(vi) Low income rental housing;

(vii) Utility services provided to an Indian reservation or to land held in trust by the United States for the benefit of an eligible Indian tribe; or

(viii) Cemeteries; and

(C) Other than government services related to the uses of property described in subsection (3)(c) of this section, do not generate income.

(c) “Low income”:

(A) Means income at or below 60 percent of the area median income as determined by the State Housing Council based on information from the United States Department of Housing and Urban Development.

(B) For purposes of projects undertaken pursuant to the Native American Housing Assistance and Self-Determination Act of 1996 (P.L. 104-330), includes income that qualifies under 24 C.F.R. 5.609.

(d) “Permanent improvements” means “real property” as defined in ORS 307.010 (1)(b)(B).

[(d)] (e) “Utility services” means services related to sanitation, sewer, storm drainage and water.

SECTION 3. (1) The amendments to ORS 307.181 by section 1 of this 2015 Act apply to property tax years beginning on or after July 1, 2015.

(2) The amendments to ORS 307.181 by section 2 of this 2015 Act apply to property tax years beginning on or after July 1, 2017.

SECTION 4. This 2015 Act takes effect on the 91st day after the date on which the 2015 regular session of the Seventy-eighth Legislative Assembly adjourns sine die.

Approved by the Governor May 13, 2015
Filed in the office of Secretary of State May 14, 2015
Effective date October 5, 2015